



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 15, 1994

Ms. Tiffany Haertling  
Hayes, Coffey & Berry  
101 South Locust, Suite 601  
Denton, Texas 76201

OR94-368

Dear Ms. Haertling:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 25986.

The City of Hickory Creek (the "city") has received a request for a copy of the city's legal counsel's "recommendation regarding the Mayor's and Police Chief's request regarding a city employee running for office in another city." You assert that the memorandum at issue is not "public information" as defined by the act. You assert in the alternative that the memorandum is excepted from required public disclosure under section 552.111 of the act.

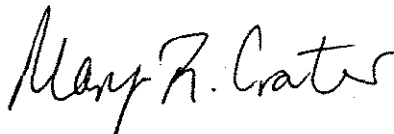
You provide no explanation for your assertion that the memorandum is not "public information." Section 552.002 defines "public record" to mean any portion of a document that contains "public information." Section 552.021 of the act provides in pertinent part that "[i]nformation is public information if, under a law or ordinance or in connection with the transaction of official business, it is collected, assembled, or maintained . . . by a governmental body." The memorandum was prepared by the city's legal counsel, as it states, "for the sole use of the Town of Hickory Creek and its elected officials." Obviously, the memorandum is maintained by the city in connection with the transaction of official city business. The fact that the memorandum states that it was created for the "sole use" of the city and its elected officials does not mean that it is beyond the scope of the act. We conclude that the memorandum is public information subject to the act.

Next, you assert that the memorandum is excepted from required public disclosure under section 552.111. Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In a recent opinion that reexamined the section 552.111 exception, this office concluded that section 552.111 excepts from public disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. Open Records Decision No. 615 (1993) at 5. The policymaking functions of an agency, however, do not encompass routine internal administrative and personnel matters. *Id.* Furthermore, section 552.111 does not except purely factual information from disclosure. *Id.*

We have reviewed the memorandum. It deals solely with the question whether a person may simultaneously serve as the chief of police or police officer for the city and as a city council member for another city--a routine administrative and personnel matter. The memorandum does not reflect the policymaking processes of the city, and therefore may not be excepted from required public disclosure under section 552.111. It must be released.

If you have questions about this ruling, please contact our office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Open Government Section

MRC/LRD/rho

Ref.: ID# 25986

Enclosures: Submitted documents

cc: Mr. Mark Brightenburg  
Sun Newspaper  
275 Market Street  
Hickory Creek, Texas 75201-1748  
(w/o enclosures)